

# Language Needs in Arkansas Courts

2012

ADMINISTRATIVE OFFICE OF THE COURTS

625 MARSHALL STREET  
LITTLE ROCK, AR 72201

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## Introduction

Over the past decade, the state of Arkansas has seen the number of its residents that speak a language other than English in the home rise by 65%, surpassing 200,000 in total. This growth has created tremendous challenges in ensuring that those residents with limited English abilities are not restricted from access to and participation in the state courts. The Administrative Office of the Courts (“AOC”) is currently working to improve that access in accordance with existing state statutes and the 2002 *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* issued by the U.S. Department of Justice.

In order to determine what resources and services will best serve both the courts and the limited English proficient (LEP) community, the AOC undertook a study of the LEP population of the state and their specific needs in the courts. The decentralized nature of the Arkansas Judiciary also necessitated an assessment of the existing practices of circuit and district courts, as well as clerk’s offices across the state. To this end, the AOC distributed two surveys in both paper and electronic format, one for circuit and district judges and the other for the clerks of each jurisdiction. Over the course of three weeks in September and October of 2012, responses were received from 57 of the 121 circuit judges (47%), 22 of the 115 district judges (20%, 33% from the judges overall) and 94 of the 310 clerk’s offices (30%). Although these numbers do not represent full participation, the response rate on each survey allows us constructive insight on possible points of improvement for LEP access.

## Demographics

In 2011, the US Census Bureau estimated the total population of the state of Arkansas to be 2,937,979, an increase of almost ten percent since the year 2000. Table 1 shows the linguistic diversity of this population, using data from the Bureau’s American Communities Survey. Among the population older than five years, the age at which competence in at least one language may be expected, an estimated 204,666 Arkansans live in households where English is not the primary language, constituting 7.5 percent of the total population. This segment of the population saw a massive increase over the past decade, rising 65% over 2000 levels, and accounting for nearly one third (31%) of the total population increase in the state during the same period. Table 2 shows the population breakdown of the ten most common primary household languages. Though there are sizable German and French-speaking communities, these are among the group of “Other Indo-European Languages,” the only language group to see a decline in population since 2000.

**Table 1: Primary Language Spoken in Household**

	2000	2011	% Change
<b>Population 5 years and over</b>	<b>2,492,205</b>	<b>2,740,313</b>	<b>10.0%</b>
English only	2,368,450	2,535,647	7.1%
<b>Language other than English</b>	<b>123,755</b>	<b>204,666</b>	<b>65.4%</b>
Spanish	82,465	149,088	80.8%
Other Indo-European languages	22,695	21,310	-6.1%
Asian and Pacific Islander languages	15,238	30,234	98.4%
Other languages	3,357	4,034	20.2%

Source: US Census Bureau American Communities Survey

**Table 2: Most Common Primary Languages in Arkansas**

Language	2011 Population	% of Total Population
<b>English</b>	<b>2,535,647</b>	<b>92.53%</b>
<b>Spanish or Spanish Creole</b>	<b>149,088</b>	<b>5.44%</b>
<b>German</b>	<b>6,653</b>	<b>0.24%</b>
<b>Chinese</b>	<b>6,146</b>	<b>0.22%</b>
<b>Other Pacific Island languages</b>	<b>5,387</b>	<b>0.20%</b>
<b>Vietnamese</b>	<b>4,718</b>	<b>0.17%</b>
<b>French (incl. Patois, Cajun)</b>	<b>3,608</b>	<b>0.13%</b>
<b>Laotian</b>	<b>2,973</b>	<b>0.11%</b>
<b>Other Asian languages</b>	<b>2,762</b>	<b>0.10%</b>
<b>Tagalog</b>	<b>2,637</b>	<b>0.10%</b>

Source: US Census Bureau American Communities Survey

While any individual whose primary language is not English may encounter difficulties in the courts leading to his or her classification as Limited English Proficient, the population with the greatest need is made up of those individuals who speak English “less than very well.” In 2011, an estimated 92,317 Arkansans, 3.4% of the total population, were placed in that category. As seen in Table 3, Spanish speakers again make up the vast majority, but the percentage of Spanish speakers who speak English “less than very well” is much lower than that of some other foreign language groups.

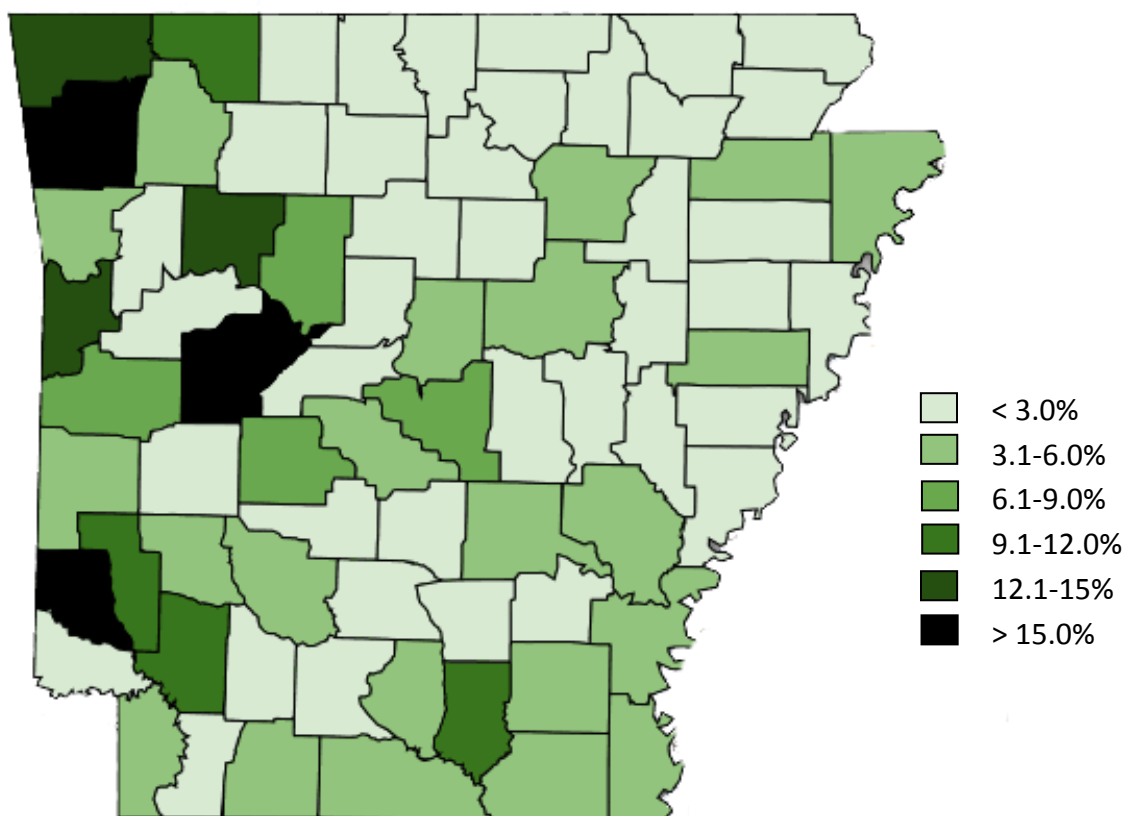
**Table 3: Arkansas Residents Who Speak English “Less than Very Well”**

Primary Language	2011 Population	% of Primary Language Population
<b>Spanish or Spanish Creole</b>	<b>70,778</b>	<b>47.5%</b>
<b>Chinese</b>	<b>3,819</b>	<b>62.1%</b>
<b>Other Pacific Island languages</b>	<b>3,679</b>	<b>68.3%</b>
<b>Vietnamese</b>	<b>3,157</b>	<b>66.9%</b>
<b>Laotian</b>	<b>1,663</b>	<b>55.9%</b>

Source: US Census Bureau American Communities Survey

As can be seen in Figure 1, very few of these foreign language speakers are found in the northern and eastern counties of the state, where both overall populations and LEP proportions are low. The western section of the state has a much larger non-English presence and is thus a priority in the distribution of any new LEP resources. Three counties, Washington, Yell, and Sevier, have more than double the average state rate of foreign language speakers with more than 15% of each county's population speaking a language other than English in the home. Sevier county, in southwest Arkansas, is home to the state's highest LEP proportion (18%). Washington county and Benton county, containing the Bentonville-Rogers-Springdale-Fayetteville metropolitan area, are home to the overwhelming majority of the state's sizeable Marshallese population and have also drawn large numbers of the state's Latino population. Pulaski county, home to Little Rock, and its populous neighboring counties, Faulkner and Saline, diverge very little from the state average LEP rate of 7.5%.

**Figure 1: 2011 Percentage of Population Whose Primary Language is Not English by County**



Source: US Census Bureau American Communities Survey

In 2011, AOC Court Interpreter Services received 7,277 total requests for interpreters. Each request corresponds to an LEP individual in need of services, though some requests may involve multiple cases for the same individual. Though these requests only represent needs for in-courtroom proceedings, the data serves as a useful gauge of the level of contact of each language group with the court system. Table 4 lists these requests by language, and Table 5 provides the number of certified interpreters and candidates in Arkansas, as listed on the AOC registry. Spanish is by far the predominant language requested, but Northwest Arkansas's considerable Marshallese population presents a unique challenge in its size and the lack of qualified interpreters.

**Table 4: Interpreter Requests by Language (2011)**

Language	Number of Requests for Interpreter
Spanish	6238
Marshallese	612
American Sign Language (ASL)	236
Vietnamese	82
Laotian	49
Chinese	11
Korean	11
Hmong	9
Chuukese	5
Pohnpeian	5
Russian	5
Arabic	4
Polish	4
Hindi	2
Oromo	1
Tagalog	1
Taiwanese	1
Turkish	1

Source: AOC Court Interpreter Services

**Table 5: Interpreters on AOC Registry**

Language	Number of Certified Interpreters	Number of Candidates (Non-Certified)
Spanish	18 (Including 3 staff)	21
Hmong	2	1
Arabic	1	
Marshallese	1	
Chinese		1
French		1
Korean		1
Laotian		2
Pohnpeian		1
Polish		1
Thai		2
Vietnamese		1

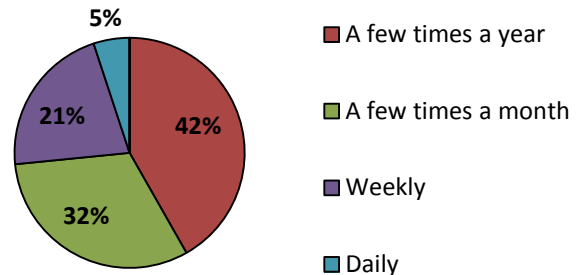
Source: AOC Court Interpreter Services

## Survey of the Courts

### LEP Contact

The findings of the judges survey conducted by the AOC seemingly bear out the demographic data on the growth of the LEP population in Arkansas. Every respondent has contact with LEP parties at least a few times a year. Around one third of those judges say that their court encounters LEP individuals on a monthly basis (32%), and roughly one quarter (26%) encounter them weekly or even daily. It does bear mentioning, however, that some of those judges who did not respond to the survey may have failed to do so because they do not currently face any LEP issues.

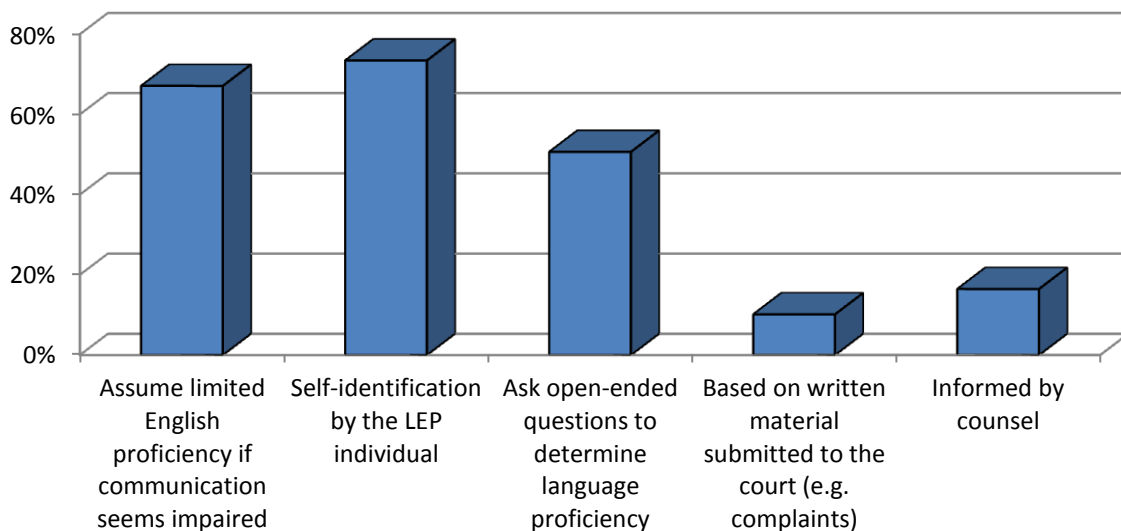
**How often does the court have contact with individuals with Limited English Proficiency (LEP)?**



### LEP Identification

One of the major problems cited by the judges was the lack of early notification of LEP needs, with many saying they have been forced to delay court proceedings after realizing a party was LEP during the regular course of a hearing. Only 16% of respondents said that they are notified by counsel, whereas the majority rely on LEP self-identification (73%) or perceived communication difficulties (67%). Over half (51%) ask open-ended questions of the litigant to determine his or her language abilities.

**How does the court identify LEP individuals? (Select all that apply)**

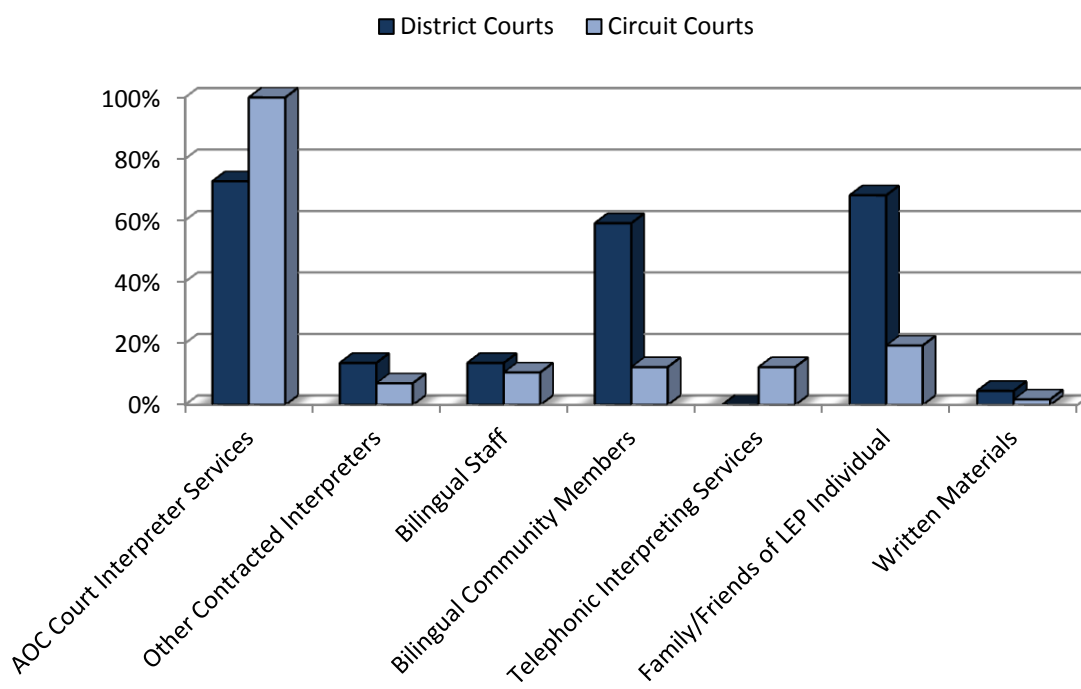


## Means of Assistance

Arkansas statutes and court rules require that judges appoint certified interpreters when the need for interpretation arises in court proceedings. Though exceptions are allowed if, “upon a good faith effort,” no certified interpreter is available, the results of this survey reveal the need for greater education about interpreter requirements, as responding courts use a variety of methods to provide assistance. In the following charts, the responses are divided between the two lower court tiers: circuit and district. The two tiers coincided in their answers to most questions, but their differences in this regard were significant.

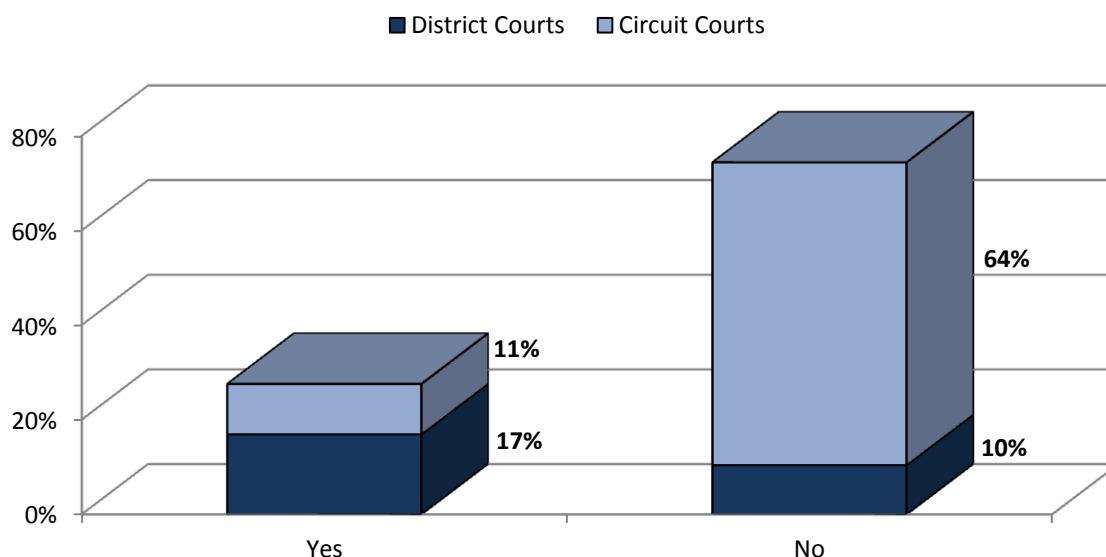
All of the responding circuit courts use AOC Court Interpreter Services in at least some of their LEP proceedings, as do three quarters of the district courts. Small minorities of each also use outside contracted interpreters (district: 14%, circuit: 7%) or bilingual staff (14%, 11%). More worrisome is the considerable number of district courts that frequently utilize family or friends of the LEP individual (68%) or bilingual community members (59%), who presumably are neither certified interpreters nor candidates. Interpretation requires training and skills beyond a basic knowledge of both English and the target language, and furthermore, the use of family or friends introduces the possibility of strong bias in the interpretation of testimony. The circuit courts utilize these groups as well, but in much lower numbers; 19% use family or friends and 12% use bilingual community members. The chart on the following page represents the overall court policies on the issue of family or friends serving as interpreters and clearly illustrates the difference between the two tiers.

**How does the court provide language assistance to these LEP individuals in courtroom proceedings? (Select all that apply)**





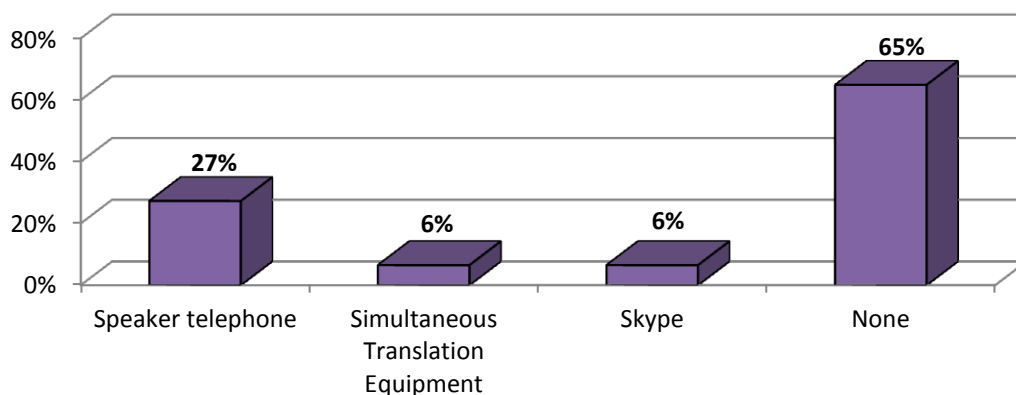
**Does the court ask or allow LEP individuals to provide their own interpreters or have family member or friends interpret?**



### Other LEP Resources

The size of the state and the rural location of some courthouses can present a challenge to AOC Court Interpreter Services when having to schedule hearings in different jurisdictions on the same day. One proposed solution is the further implementation of remote interpreting. The AOC has experimented with this in the past, providing eight circuit courtrooms with simultaneous translation equipment, or on occasion simply using a speaker telephone, but the survey found that the majority of responding courts have few resources for remote interpretation, meaning that any large scale effort to implement it would require a substantial commitment by the AOC and participating courts.

**What kinds of distance interpreting technologies are available to the court? (Select all that apply)**



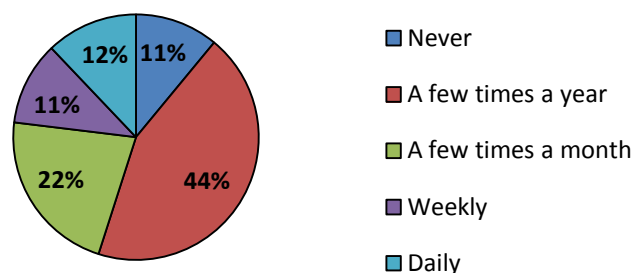
## Survey of the Clerks

Unlike circuit and state district judges, individual clerk's offices do not fall under the auspices of the AOC. Clerks are elected constitutional officers and not court employees, and their offices are funded by the counties and cities that comprise their jurisdiction. That being said, they are often the gateway to the courts and the first place that LEP individuals go to seek justice. As such, the AOC is making every effort to assist clerks in providing meaningful access to the LEP populations they serve.

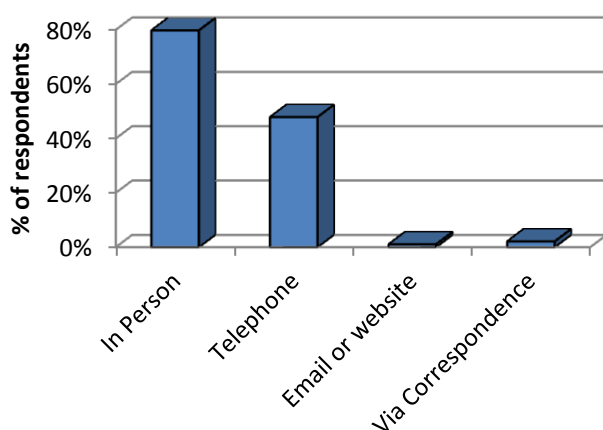
### LEP Contact

Of the responding clerk's offices, only 11% reported that they have never dealt with an LEP person. A majority only have LEP contact a few times a year (44%) or a few times a month (22%). The remaining offices, nearly one quarter of respondents (23%), encounter LEP individuals at least weekly, if not daily.

**How often does your office have contact with individuals with Limited English Proficiency (LEP)?**



**Please describe the manner in which your office typically interacts with LEP individuals: (Select all that apply)**

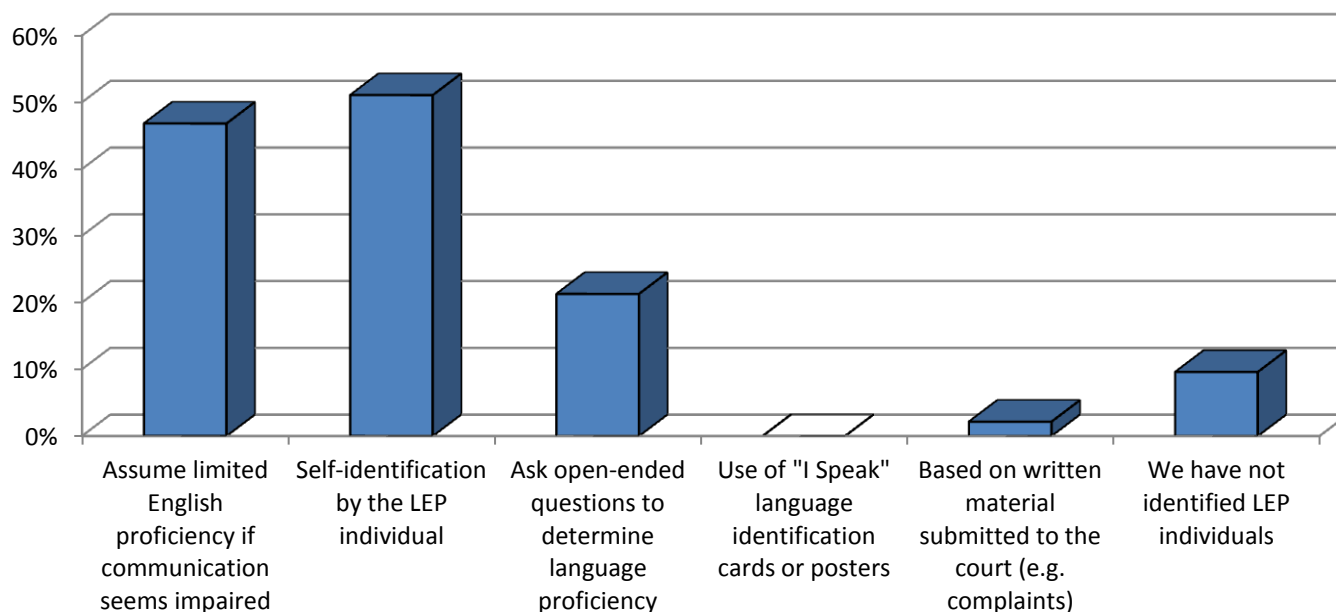


The nature of this contact also presents a challenge. Most offices conduct LEP interactions in person (80%), but just less than half (48%) also serve LEP persons by telephone. A very small minority also use written communication, whether online or via correspondence. Whereas in-person interaction allows for alternative modes of communication, such as translated written notices or even gestures, telephonic communication is almost rendered impossible without passable English language skills.

### LEP Identification

Many judges noted the need to be notified of interpreter need in advance of court proceedings, something that could be achieved through simple changes to case paperwork or police citations. As it is often the site of the first contact with LEP individuals, this sort of advance notice is much less feasible in the setting of the clerk's

### How does your office identify LEP individuals? (Select all that apply)

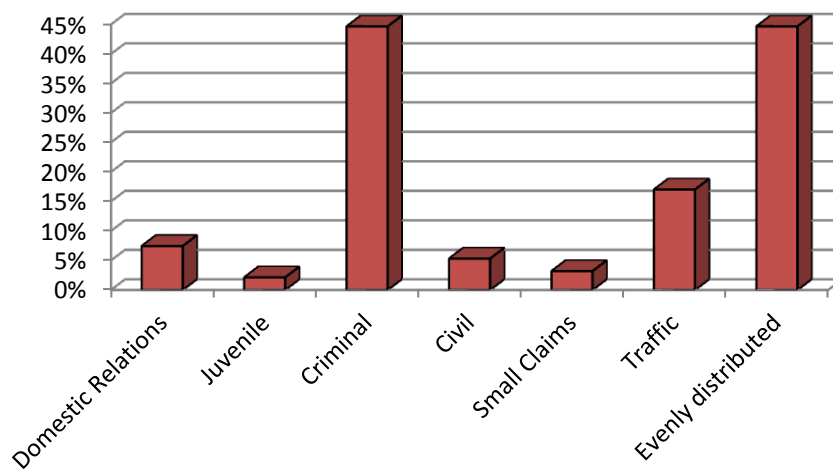


office. Consequently, their LEP identification measures parallel those currently utilized by the judges in lieu of advance notice. A slim majority (51%) rely on self-identification of LEP persons, and a similarly large proportion (47%) also depend on perceived communication difficulties to determine language needs. No responding office presently uses "I speak" cards or similar signage to assist in LEP identification.

### LEP Cases

As for the kind of cases involving LEP litigants, most offices either saw no considerable difference in case distribution (45%), or saw greater LEP numbers in criminal cases (45%). Just under one fifth (17%) of responding offices noted more LEP use of traffic courts.

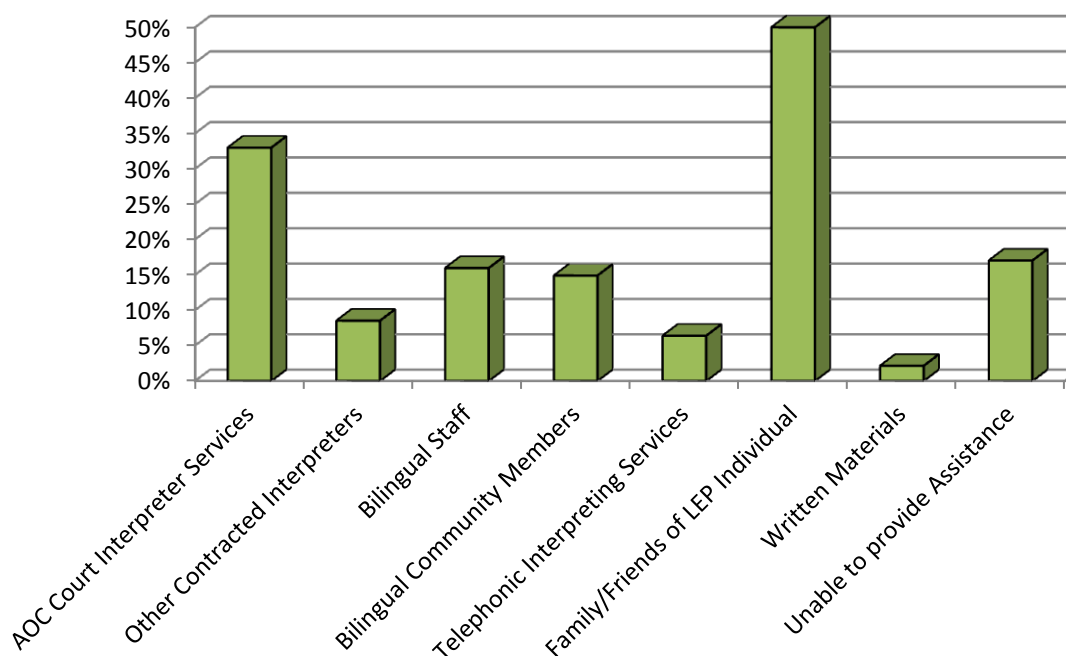
### Are LEP individuals more commonly involved in certain types of cases? If so, which divisions? (Select all that apply)



### Means of Assistance

When looking at how assistance is actually provided, we find that half of all clerk's offices depend heavily on family and friends of the LEP individual to interpret. While most offices with bilingual staff do utilize them (16%), others contact outside bilingual community member (15%) or even contract non-AOC interpreters (9%) or telephonic interpreting services (6%). AOC Court Interpreter Services works only in court proceedings, but it is often the clerk that makes arrangements for an AOC interpreter, explaining the high number (33%) who replied that they use Court Interpreter Services. Though the use of family or friends to interpret in a court setting should never be permitted, it is less problematic in the clerk's office, where information transmitted is less sensitive to bias or poor interpretation.

**How does your office provide language assistance to these LEP individuals outside of the courtroom? (Select all that apply)**



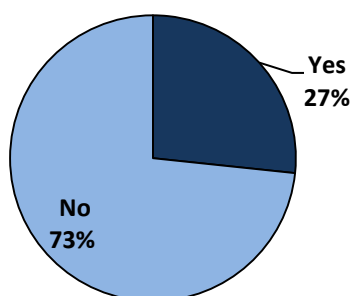
### Other LEP Resources

Given the limited resources and funding for AOC Court Interpreter Services, court proceedings are the primary focus for its interpreters. These limitations mean that clerk's offices must find other ways to serve LEP parties. Among the easiest ways to do this is via written notices and forms. Starting in 2004, AOC Court Interpreter Services began accepting requests from courts to translate some forms to Spanish. Despite the fact that these forms cannot be submitted to the courts, they aid the LEP individual in understanding the English equivalent. However, only 27% of responding offices say that

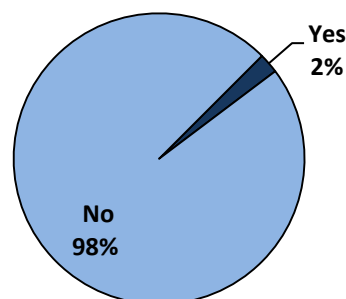
they have these forms on hand. A much smaller number (6%) have other kinds written materials to assist the LEP population. Just 2% (2 offices in total) have any sort of foreign language signage, and one of those two has nothing more than a translated payments notice.

In the absence of a trained interpreter, bilingual staff are a vital resource, but only 18% of respondents employ bilingual staff or have access to the staff of an associated office (e.g. police or city employees). The bilingual staff of these offices are all bilingual in Spanish and English, apart from one clerk's office that employs a Japanese/English speaker and another that has Mandarin-speaking employee. It is important to note that there is no way to ascertain the actual linguistic level of those who claim bilingualism without some standardized form of testing, which is not required for these staff members.

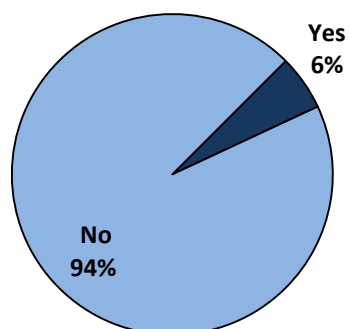
**Does your office have translated forms available to LEP individuals?**



**Does your office have any foreign language signs or posters visible to the public to advertise language services available to LEP individuals?**



**Does your office have access to translated pamphlets or other written materials describing services available to LEP individuals?**



**Does your office employ any bilingual staff?**

